REMARKS

New claims 40-53 are added. The new claims are supported by the originally-filed application at, for example, pages 12 and 18-19, and by the exemplary structure shown in Fig. 20. Claims 5-9 and 40-53 remain in the application. Reconsideration of the application in view of the amendments and the remarks to follow is requested.

Claims 5-9 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over U.S. Patent No. 6,403,429 and U.S. Patent No. 6,300,204. Claims 5-9 are **original** claims from the original priority application filed April 25, 1997, serial no. 08/846,110, now U.S. Patent No. 6,004,835, issued December 21, 1997. As Applicant explained in the previous response, claims 5-9 were restricted out by the Office (Office Action mailed March 26, 1999, paper No. 5) during prosecution of the original priority document, U.S. Patent No. 6,004,835. Moreover, the patents on which the rejection is based, U.S. Patent No. 6,403,429 and U.S. Patent No. 6,300,204, are directed to subject matter of another invention restricted out by the Office from the same original priority document, U.S. Patent No. 6,004,835. Consequently, pursuant to 35 U.S.C. §121 and the MPEP, the Office can not now present an obviousness-type double patenting rejection against subject matter of one invention based on patents claiming subject matter of another invention ("35 U.S.C. §121 ... prohibits the use of a patent issuing on an application with respect to which a requirement for restriction has been made, or on an

application filed as a result of such a requirement, as a reference against any divisional application" MPEP §804.01 (8th Edition) *citing* 35 U.S.C. §121). Accordingly, the rejection is inappropriate and should be withdrawn.

The Examiner states the subject matter is co-extensive and therefore there was no reason why the subject matter was not presented in an earlier application (page 3 of paper no. 12). Respectfully, such statement is nonsensical as claims 5-9 are the original claims presented upon the original filing of the original priority document, U.S. Patent No. 6,004,835. Accordingly, the claims **were** presented in the earliest application. If the Examiner is not convinced that the obviousness-type double patenting rejection is inappropriate and should be withdrawn, Applicant requests an interview to clarify the issue.

This application is now believed to be in immediate condition for allowance, and action to that end is respectfully requested. If the Examiner's next anticipated action is to be anything other than a Notice of Allowance, the undersigned respectfully requests a telephone interview prior to issuance of any such subsequent action.

Respectfully submitted,

Dated: 6-12-03

By: _____
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Reg. No. 40,045